

notion of court action taken before reasonable notice and an opportunity to be heard has been granted both sides of a dispute.” *Granny Goose Foods, Inc. v. Brotherhood of Teamsters*, 415 U.S. 423, 438–39 (1974).

Ordinarily, such orders are permissible where notice is impossible because the opposing party is unknown or is unable to be found. *See First Tech. Safety Sys. v. Depinet*, 11 F.3d 641, 650 (6th Cir. 2003) (citing *Am. Can Co. v. Mansukhani*, 742 F.2d 314, 322 (7th Cir. 1984)). Such an order may also be appropriate if notice to the adverse party “would render fruitless further prosecution of the action.” *Id.* This latter scenario exists in limited circumstances, i.e., “(1) there is an imminent threat of the destruction of the disputed property; (2) there is an imminent threat that property will be removed beyond the confines of the state; or (3) there is an imminent threat that the property will be sold to an innocent third party.” *Adelman v. Zapata Cty.*, 2009 WL 10715842, at *1 (S.D. Tex. Mar. 4, 2009) (citing *Matter of Vuitton et Fils S.A.*, 606 F.2d 1, 4 (2d Cir. 1979)).

The only mention in Plaintiffs’ motion of their efforts made to give notice is in the Certificate of Conference and Attempted Notice. ECF No. 1 at 19. Plaintiffs describe efforts to reach a resolution that were not successful, and that they provided courtesy copies of their pleading at the time it was filed to counsel they had previously worked with, but “do not know whether the lawyers with whom they have been dealing are the lawyers who will represent [Defendant] in this proceeding.” *Id.* Finally, in their efforts to reach a resolution, Plaintiffs threatened Defendant that injunctive relief “could” be sought if a resolution was not reached. *Id.* The Court finds these attempts to provide notice made by the movants’ attorneys are insufficient. *See* FED. R. CIV. P. 65(b)(1). Additionally, in their Motion, Plaintiffs make no mention why such notice should not be

required in this case. *Id.* Nor does the motion indicate that the circumstances here justify proceeding without notice to Defendants.

Thus, the Court **DENIES** Plaintiffs' motion for failure to satisfy the stringent requirements of Rule 65 and to demonstrate the necessity of an *ex parte* order. Finally, the Court makes no determination regarding Plaintiffs' entitlement to injunctive relief as a general matter. Plaintiffs' may renew such request for relief once Defendants have been served with notice of the instant action. Should Plaintiffs renew their Motion once Defendants have been properly served with notice, the parties must meet and provide a joint briefing schedule.

SO ORDERED this **17th day of April, 2024**.


Reed O'Connor
UNITED STATES DISTRICT JUDGE